

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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John Wayne Brooks,

Case No. 24-CV-3804 (LMP/SGE)

Petitioner,

v.

**REPORT AND RECOMMENDATION**

Jerad Rardin, Warden,

Respondent.

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In a letter dated October 3, 2024, the Clerk of Court directed petitioner John Wayne Brooks to pay the filing fee for this matter or apply for *in forma pauperis* (“IFP”) status within 15 days. *See* ECF No. 2. Failure to do so, Brooks was warned, could result in this action being dismissed without prejudice for failure to prosecute. *See id.*

That deadline has now passed, and Brooks has not paid the filing fee for this matter or applied for IFP status. In fact, Brooks has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends, consistent with the warning previously given to Brooks, that this action be dismissed without prejudice under Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 F. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

## **RECOMMENDATION**

Based upon the foregoing, and on all of the files, records, and proceedings herein,  
**IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT  
PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: November 5, 2024

s/ Shannon G. Elkins

Shannon G. Elkins

United States Magistrate Judge

*Brooks v. Rardin*

Case No. 24-cv-3804 (LMP/SGE)

## **NOTICE**

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).